

REPORT

Of the Committee on Elections on the petition of Parmenio Adams, contesting the election of Isaac Wilson.

DECEMBER 30, 1823.

Read, and committed to a Committee of the whole House to-morrow.

The Committee of Elections, to which was referred the petition of Parmenio Adams, claiming the right to a seat in this House, instead of Isaac Wilson, who is returned as one of the Representatives from the state of New York, in the present Congress, have had the same under consideration, and,

REPORT:

That, by the laws of the state of New York, "for regulating elections," all elections are by ballot, and are directed to be held by towns in each county within the state, and the supervisor, assessors, and town clerk, of the several towns, or a majority of them, are to constitute a board of inspectors, whose duty it is to superintend the elections in their respective towns, and, after making a canvass of the votes given at any election, to cause the same to be recorded in the town books, and transmit to the office of the county clerk, a true return of the votes so canvassed; when the same shall be examined by a board of county canvassers. After the whole number of votes given in the county is ascertained, and an entry thereof made by the clerk, on the records of the county, he shall immediately make out three certified copies thereof; one of which, he shall forward to the Governor of the state, one to the Comptroller, and one to the Secretary of State, to be laid before the state canvassers. The state is divided into districts for the election of Representatives to Congress, and the county of Genessee forms the twenty-ninth District. The election for Representatives in the present Congress, was held on the first Monday of November, 1822, and the two succeeding days. It appears that at that election, Isaac Wilson and Parmenio Adams were candidates in opposition; and, by the official certificate of the clerk of Genessee county, it appears, that Isaac Wilson, by the returns from the several towns, had 2093 votes, and that, by the same

returns, Parmenio Adams had 2077 votes. The petitioner rests his claim to a seat, solely on the ground that, in the town of China, in said county, the board of inspectors made a mistake, by returning for the sitting member 67 votes, when, in fact, the true number given for him, was only 45 votes, and ought to have been so returned. The sitting member relies on three points to support his right to retain his seat. 1st: that in the town of Attica, a mistake took place, similar in its nature to the one which occurred in China, by which mistake, the petitioner had 98 votes returned for him by the board of inspectors of the election in Attica, when the true number given, was but 93 votes, and that so it ought to have been returned. 2d: that, in the town of Middlebury, the board of inspectors rejected one vote which ought to have been counted for him, because, it being a printed ballot, with his name thereon, but partially erased with the stroke of a pen, was improperly considered as a blank vote; and, 3d, that, in the towns of Stafford and Byron, six ballots were improperly destroyed by the boards of inspectors in those towns, and not included in the canvass, which he contends were given for him, and ought to have been taken into the general estimate of those towns. In support of the different allegations of the parties, a number of affidavits are produced, taken in the presence of both. No attempt is made to impeach the character or veracity of any of the witnesses. They are principally officers of the election, chosen by the citizens of their respective towns, and presumed to be gentlemen of respectability. The Committee have carefully examined the testimony, and consider it as entitled to full credit. They are clearly of opinion that the testimony respecting the return from the town of China, establishes the fact that 22 votes were returned for the sitting member more than the number he actually received; and they are equally satisfied that, in the town of Attica, 5 votes were returned for the petitioner more than were given for him by the electors of said town. With respect to the vote which the sitting member claims in the town of Middlebury, the committee are of opinion that he has failed to produce proof sufficient to warrant the conclusion that the board of inspectors acted improperly in considering it a blank ballot. This ballot, it appears, was a printed one, and the name of the sitting member was impressed thereon, but "was excluded from the canvass and estimate, because" it was defaced "by one stroke of a pen drawn over the name; but that every letter was distinct and legible." All the inspectors of election agree in the opinion, that, from the manner in which this ballot was defaced, it must have been the intention of the elector who presented it, to have it considered as blank. It will be observed, that these inspectors, from the nature of the trust confided to them, and from the obligations they would necessarily feel to discharge their duty with fidelity, together with the superior advantage which their situation afforded them of judging more correctly than any spectator or bystander could do, must be presumed to be more competent to decide this question than any other persons could be. With the decision of the board of inspectors, in this case, the committee are not disposed to

interfere. They consider it a question on which it would be impossible to come to any deliberate conclusion, without being possessed of the same opportunity and advantages which were afforded to the board of inspectors. No person can undertake, with safety, to determine, from any description of a ballot of this sort, what decision he might be disposed to make from an actual inspection of the ballot itself. By the law of the state, the board were constituted the judges. They performed their duty, and are still convinced that their judgment was correct; and the committee are not disposed to question their decision. The claim of the sitting member to have certain votes, which are stated to have been given for him in the towns of Stafford and Byron, counted in his favor, is not considered to be sufficiently established by the testimony. All the inspectors agree that the ballots were folded together, and a reference to the poll lists confirmed the fact, that more ballots were received than were names on those lists. The suggestion of some of the witnesses, that these ballots *might* have been innocently delivered by the electors, without any intention of committing fraud, will not avail in a case of this kind. By the law of the state, every elector who conducts in that way, forfeits his right of suffrage on that occasion. The law on the subject is positive. It provides, that "*if any two or more ballots are found folded or rolled up together, none of the ballots so folded or rolled shall be estimated.*" Upon a full view of the whole case, the committee are of opinion that the election was conducted with fair and honest intention on the part of the board of inspectors of the several towns to which their inquiries have extended; and that their testimony is competent, and ought to be received, to correct any mistakes which may have occurred in returning the votes given at said election. That justice, in this case, requires that there be deducted from the aggregate number of 2,093 votes, returned for the sitting member, the 22 votes which were allowed to his poll by the mistake in the return from the town of China, which will make the whole number of votes to which he is properly entitled 2,071; and that, in like manner, a deduction ought to be made from the aggregate number of 2,077, returned for the petitioner on account of the mistake of five votes returned for him in the town of Attica, more than were given for him in that town, which will leave to his poll 2,072 votes, being a majority of one vote over the sitting member. The committee therefore submit the following resolutions:

Resolved, That Isaac Wilson is not entitled to a seat in this House.

Resolved, That Parmenio Adams is entitled to a seat in this House.

To the Honorable the House of Representatives, in the Congress of the United States of America:

The petition of the undersigned, Parmenio Adams, humbly sheweth: That your petitioner, and Isaac Wilson, were opposing candidates

for the office of Member of Congress, in the twenty-ninth Congressional district of the state of New York, composed of the county of Genessee, at an election held in said district, on the first Monday of November, 1822, and on the two succeeding days, in pursuance of a law of the said state, to elect a member to represent said district in the Eighteenth Congress of the United States of America; that the whole number of votes given for such member of Congress, at the said election, in the several towns composing the said district, as returned by the proper officers, was four thousand one hundred and seventy; and of that number, two thousand and seventy-seven were returned as having been given for your petitioner, and two thousand and ninety-three for the said Isaac Wilson.

And your petitioner begs leave further to represent, that the Board of Inspectors of Election, for the town of China, in said district, returned, to the Board of Canvassers appointed by a law of the said state of New York, sixty seven votes, as having been given in said town for your petitioner for member of Congress, as aforesaid, and, by mistake, sixty-seven votes, as having been given for the said Isaac Wilson, for member of Congress, as aforesaid; which said number of sixty-seven votes, for the said Isaac Wilson, was counted and allowed by the said Board of Canvassers, in order to make up the said number of two thousand and ninety-three, given for the said Isaac Wilson in the said district: whereas, in truth and in fact, your petitioner did receive sixty-seven votes in the said town of China; but the said Isaac Wilson received only forty-five votes in the said town: so that your petitioner did, in truth, receive two thousand and seventy-seven votes in the said district; but the said Isaac Wilson did not, in truth, receive but two thousand and seventy-one votes in the said district; which gives to your petitioner a majority of six votes, over the said Isaac Wilson, there being no other candidates for the office of member of Congress in the said district, at the said election, who received as many votes for the said office, as either your petitioner, or the said Isaac Wilson.

And your petitioner further states, that, from the facts above stated, which are proved to your honorable body by the affidavits and documents accompanying the prayer of your petitioner, he is entitled to a seat with your honorable body, as a representative in Congress; but, that he cannot avail himself of what he considers to be his right, without the aid of your honourable body, the said Isaac Wilson having obtained a certificate of his election in the said district.

Your petitioner therefore prays, that the seat of the said Isaac Wilson, in your honorable body, may be vacated, and your petitioner have leave to assume the same, in conformity to the will of the electors of the 29th Congressional district in the state of New York, as expressed in and by the said election.

And your petitioner will ever pray, &c.

PARMENIO ADAMS.

Washington City, 1st December, 1823.

To the Hon. JOHN SLOANE,

Chairman of the Committee of Elections.

SIR: Inasmuch as it has been intimated that the Committee of Elections will indulge me in a few suggestions, growing out of the documents submitted to their examination, in relation to the contested election between Major Parmenio Adams and myself, I beg leave to call the attention of the committee to the following: The petitioner, it appears, seeks, by affidavit, to diminish the vote for the sitting member, in the town of *China*, where the return had been made out in due form under the statute law of the state of New York, officially signed by the inspectors of election, and returned to the district canvassers, and by them allowed and transmitted to the state board, whereon they make their official certificate. Regarding the state law, it is believed that the return should be sustained entire as it is, or rejected altogether, on the ground of improper conduct of the inspectors, as appears from their own testimony. It will be noticed, that the town clerk entered the said official return on the town book different from the number contained therein, at forty-five votes for the sitting member, without consulting any one of his associate inspectors, and, but a few days thereafter, made his affidavit that the sitting member had received *forty-six* votes in said town of *China*. If, however, it should be adjudged proper by the committee, from the case presented, to correct the return of the town of *China*, in accordance with the memorial introduced by the petitioner, it is expected that the broad ground will be assumed, of extending full and perfect equity to the parties, and that he who had the greatest number of votes in the ballot boxes, and was thereby fairly sustained by the greatest number of electors in the district, should be allowed to prevail. The petitioner claims a majority of six votes over the sitting member, by correcting the alleged mistake in the town of *China*. Under this view of the case, I proceed, sir, to an examination of the testimony produced on the part of the sitting member, remarking that he relies, with perfect confidence, on the accumulated testimony, to prove a *mistake* in the official return of the town of *Attica*, in said district, in returning ninety-eight votes for the petitioner, instead of ninety-three, the true number given for him in said town. *Six* of the seven inspectors and clerks, to wit: four inspectors and two clerks of election of the said town of *Attica*, all testify, that they are clear and distinct in their recollections, and are positive that the canvass of that town gave the sitting member a majority of *thirty* votes over the petitioner: whereas, the return to the clerk's office, and official canvass, shews a majority of *twenty-five* only. Two of the inspectors, and the two clerks, are equally clear and distinct in their recollections of the particular number given for each candidate; and several of the witnesses recollect distinctly, the whole number of votes given

in said town for both candidates, and the number of names on the poll lists; and, superadded to this weight of evidence, is a *minute, in writing*, of the candidates' names voted for at the election, with the number of votes given for each, in figures, set opposite, identified by Mr. Stevens, one of the clerks, to be in his own hand writing, taken down by him at the time of the canvass. These six witnesses were examined by the petitioner on interrogatory, and, in my humble apprehension, their answers strengthen the body of their affidavits.

The petitioner made an attempt to rebut their testimony. He introduces three witnesses; first, Simeon Williams, jun. member of the board and town clerk, who made out the official return, and is made to say, in the body of his affidavit, "That when the said certificate was completed, and the number of votes received and canvassed, *for members of congress, inserted therein*, as stated to this deponent by the said clerks, he, this deponent, called upon the inspectors and one of the clerks, to the reading and comparing, &c. which being done, and no objection, &c. it was thereupon signed," &c. Whereas, in his answer to the last interrogatory, he confesses, that, upon the call of the board to the reading, "and *after* the reading, one of the clerks said, you have not got the congress votes down; to which he answered, he had *not*, and one of the clerks then orally gave him the number of votes, &c. and he is *not certain* whether the returns were compared or not after the addition of the said congressional votes." Thus, in the body of the affidavit, and in the answer to the last interrogatory, are stated distinct facts, directly in collision with each other, which prove, that the witness was mistaken in the body of his affidavit; and there is no doubt, that, after the congressional votes were set down, the returns were not read or compared, but were immediately signed and kept by Mr. Williams for record. Moses Disbrow, another witness, stood by one of the clerks, and counted the tally paper at ninety-eight, and saw the clerk count once and set down ninety eight, as he supposed, by candle light, and immediately left the room; did not see the clerk make a second count, nor did he see the other clerk count, or any comparison between them. David C. Miller, the last witness to this point, relates a casual conversation had with George Cooley, Esquire, soon after the official canvass was published, and understood him to answer to this question, Do you believe there was a mistake? Ans. I do not think there was. And several weeks after, Esquire Cooley was understood to say, I have made no affidavit, (meaning to a mistake) neither do I think I shall. In desultory conversations like these, it is not uncommon to mistake the intention of the person spoken to, and to put a different construction and complexion in detailing such conversations. The understanding of Esquire Cooley is explained in his answers to interrogatories to his own affidavit. And what does he testify? Merely, that, after the whole number of votes were canvassed by the board, and put down by the clerks and compared, the clerks announced to the board, that the sitting member had a majority of thirty votes over the petitioner, and the deponent believes that he did receive a majority of thirty votes.

Thus much for the attempt to avoid the mistake in *Attica*. We have proceeded so far on the ground of corrections, and the petitioner is one single vote in advance only. In the town of *Middlebury*, all the testimony concurs in proving, that one printed vote put into the congressional election box, with the name of Isaac Wilson upon it, with every letter legible, and clearly and easily to be read, and without any other name or writing thereon, was thrown aside, and not included in the official return, because it was partially defaced, apparently with one dash of a pen, whereby one elector, who exercised his elective franchise, was excluded and thrown out of said return. Nothing can be more clear, than that a blot or a stroke of a pen on the name, which is still perfectly legible, would not authorize the inspectors to throw it aside, on the violent presumption that it meant nothing. Names are to be written or printed on a ballot; if they are legible it is enough. If this ballot is counted, the parties pursuing the ground of correction, have an equal number, independent of the votes called double.

Permit me in the next place, Mr. Chairman, to invite the attention of the committee to the testimony relating to the towns of *Byron* and *Stafford*. I mention the two in conjunction, as being in some respects similar. I will, however, first advert to a circumstance which took place in the town of *Stafford*, at the canvass of the votes of said town, which was of an extraordinary character, and in direct violation of the state law: the denying the electors the privilege of witnessing said canvass, and to effect that object withdrawing to a more private room and fastening the usual door of entrance, and had actually made some progress in said canvass, when the first witness accidentally found means of entering the room by a back door. As proof of this, I refer to the affidavits of Gen. W. L. Churchill and Ira Gilbert. In the towns of *Stafford* and *Byron* it appears that six votes that were in the congressional election boxes, and given for the sitting member, were thrown aside, and not included in the returns,—the inspectors, as they testify, supposing that the state law required their exclusion as double votes. But it is confidently believed that an attentive examination of the evidence in those cases, will satisfy every candid and liberal mind that they were not “folded or rolled up together” (the words of the state law,) that is, infolded together, for the purposes of deception, before they were delivered to the inspectors to be put into the boxes.

It is abundantly in proof that those six votes were folded in the usual manner, and as the other votes in the boxes were folded, with edges out on both sides. For the two votes in the town of *Stafford*, I refer to the testimony of Ezekiel Hall and Marvin Lord, inspectors, and Gen. W. L. Churchill, Ira Gilbert and Alfred Churchill, and controverted by none. The particular description of the folding is also given by the witnesses, and clearly shews that they might have slipped together in the boxes; and the presumption is strong that they did so slip together, as it is proved by B. Brooks, Esq. S. Griswold, Esq. and Gen. W. L. Churchill, that votes in the state of New

York are not unfrequently found thus slipped together, and when thus found have been canvassed and allowed. That the four votes mentioned in Byron, were folded in the usual manner also, I refer to the testimony of Bartholomew Benham, Edmund Wilcox, inspectors, and Samuel B. James, present at the canvass. That the whole *six* votes were given for the sitting member, is proved by several witnesses, and stands uncontradicted by any one. I am aware that it will be urged that the circumstance of a disagreement of the poll lists with the votes in the boxes, is proof that the votes were put in double by the electors: but I humbly conceive, that it is far from being conclusive proof, when we reflect that they were folded in the usual manner, so that they might have slipped together, and that it is not unusual that they *are found* thus slipped together; and moreover that it often happens that there is a disagreement between the poll lists and the votes in the boxes, as is proved by Gen. W. L. Churchill, B. Brooks, Esq. and S. Griswold, Esq.; and not unfrequently an excess of votes, which may well happen, by the neglect of clerks, through the hurry and bustle of an election, to enter the name of every elector who puts his vote into the boxes, especially when there are three boxes and three poll lists for each elector. From these and other circumstances, is not the presumption too strong to be resisted, that some of them, if not the whole six votes, were given in singly? And while on this subject, it may be observed, that the only possible ground on which the six votes can be set aside, is a fraudulent intention in the electors.

It is not only possible, but very probable, as has been shown, that these votes had slipped into each other by carrying about the boxes from one day's election to another, and from the votes having to pass the scrutiny of the inspectors as they are put in. If these votes are decided to be fraudulent, it must be from presumption merely. It is not easy to distinguish this case from all others, where fraud is never to be presumed, but must be most conclusively proven. Again, suppose that these six votes were all given in double, we have it in proof, to wit, by Gen. Churchill, Gilbert, and James, that they might not only possibly but probably, in that case, have been hastily received from distributors of votes, thus together; and without examination put in, not knowing there were two; and if so, no fraud could attach to the elector, and upon the broad principles of perfect equity, disregarding the state law, the double vote should count one. From the production of the affidavits of D. C. Miller and J. B. Lay, identifying a printed sheet of votes, and proving the same to be similar to all the Congressional votes printed at the said Miller's office for the election of November, 1822, it is presumed the petitioner intends to infer a mistake by some of my witnesses in describing the caption or label of votes. The proof does not establish the inference; other votes than those printed at that office might have been circulated. But, suppose they were mistaken in that incidental circumstance, which was only introduced to shew a dissimilarity between the captions: It may well be supposed that they might mis-

place the words of the caption, and yet be clear and correct in their recollection as to its *object*, to wit, designating the different candidates; and all that is said in relation to captions is not material, as the name of the sitting member was seen by the witnesses on five of the said six votes, and there is no pretension, in proof, to the contrary. Upon a review of this case, is it not clear that the election of the sitting member was equitably sustained by a fair majority of his district? And that such will be the decision of this honorable Committee, and of the House, I think the answer will unanimously be in the affirmative.

Respectfully submitted,

ISAAC WILSON.

To the Honorable JOHN SLOANE,
Chairman of the Committee of Elections, &c.

Humbly referring your honorable body to a re-perusal of the documents submitted by your petitioner, he respectfully submits the following suggestions:

1. Your petitioner on a particular examination of the evidence relative to the votes given in the town of *China*, (a) assumes the conclusion as irresistible, that the facts set forth in the petition relative to those votes, are established beyond controversy. In answer to which, the sitting member endeavors, in part, to balance the majority in favor of your petitioner, resulting from the *correction* of the mistake alleged by him, by shewing a mistake in your petitioner's favor, in the town of *Attica*, (b) to the number of five votes.

On this part of the case it is humbly suggested, that a statement of the result of the canvass drawn up at the time (the attention of the inspectors being particularly drawn to the state of the *Congress* votes, and the whole being certified by, and in the presence of, each of the said inspectors, as the constituted judges) should preponderate as a matter of authenticated record evidence over the *recollections* of any set of men, in the absence of the original canvass itself, which was preserved, and forms the groundwork from which all the inferences are drawn in relation to the votes in the town of *China*.

2. Should the sitting member be deemed to have established the alleged mistake in the town of *Attica* (which, however, can not for a moment be admitted) still there will remain a majority of *one vote*, in favor of your petitioner. It is contended, nevertheless, that a legitimate vote, given for the sitting member, in the town of *Middlebury*,

(a) See affidavits in relation to mistake in *China*.

(b) See affidavits in relation to mistake in *Attica*, particularly those of S. Williams, jun., and also that of Moses Disbrow.

(c) was not counted. On this point, it is sufficient to remark, that the inspectors of the election having *ocularly* examined the vote itself, were better capable of determining on its legitimacy, than any body of men can be from a *description* of the vote given even by the inspectors themselves. And again, the inspectors are by the election law of the State of New York, made the judges of the validity of that vote—they acted judicially upon it, and it is respectfully submitted, that their decision ought to be conclusive in the premises, and not in the nature of a *mistake*, subject to future revision and correction.

3. In reference to the *double votes* given in the town of *Byron* (d) and *Stafford*, (e) the law of the State of New York makes the inspectors, who institute an examination at the time, (referring to the proper check provided by the same law, viz: the examination of the *poll lists*) the *sole judges*. And if, in their judgment, honestly formed, the votes were deemed to have been put in double, then the fraud intended to be guarded against, is presumed, and the votes are consequently void.

And your petitioner has the honor to be, sir,

Your most obedient humble servant,

PARMENIO ADAMS.

(c) As to the erased vote, in the town of *Middlebury*, see affidavits of Russel Abel, William B. Collier, and Nathan Hubbard, procured by the sitting member, and that of Henry G. Walker, procured by your petitioner.

(d) See affidavits of Samuel Targgate, Bat. Binham, Daniel Dibble, and Edmund Wilcox, procured by the sitting member, and that of Jonathan Nickerson, David C. Miller, and James B. Lay, procured by your petitioner.

(e) See affidavits of Ezekiel Hall, Marvin Lord, and Isaiah Golden, procured by the sitting member, as to the double votes in the town of *Stafford*.

PAPERS

*To be annexed to Report No. 15.*ADAMS *vs.* WILSON.

DECEMBER 31, 1823.

Printed by order of the House of Representatives.

State of New York, } ss.
Genesee County,

Russel Abel, of the town of Middlebury, and county aforesaid, being duly sworn, depose and saith: That he, this deponent, was on the first Tuesday in March, A. D. one thousand eight hundred and twenty-two, duly chosen Supervisor of the said town of Middlebury; that as such Supervisor, he was, ex-officio, by the laws of the state, one of the board of Inspectors of Election, for a member of Congress for the twenty-ninth congressional district in said state, held in and for said town of Middlebury, on the first Monday of November, and the two succeeding days, A. D. 1822. That as such, he assisted in canvassing and estimating the whole number of votes given in said town at said election. That, on canvassing the votes, for a member of Congress, one printed vote which was found in the congressional ballot box, and had on it the name of Isaac Wilson, in print, was excluded from the canvass and estimate, and not included in the official return of votes from said town, because there appeared to be one stroke of a pen drawn over the name; but that every letter of the name of Isaac Wilson was distinct and legible, and there was no other name or writing on said ballot; and that on comparing the names of the electors on the poll lists, with the number of votes in the congressional ballot box, the number of both were the same, and they agreed counting said vote so excluded; but, by excluding said vote, the vote of one elector, whose name was on the poll list, was excluded, and was not counted at said election.

Interrogatories, by Parmenio Adams.

Inter. Was the pen so drawn across said ballot, as to render it difficult to read the name?

Ans. I think the letters were clearly discernable.

Inter. What did the board of inspectors of election do with said ballot, when it was first discovered?

Ans. I opened the ballot; and can't say whether it was immediately disposed of or not.

Inter. Was the ballot so much obliterated, that the board of election, at the time of canvassing, considered that the person who gave it to the board, considered it a blank vote?

Ans. That was the opinion of the majority of the board; and I can't say it was the opinion of each one.

Inter. Was it considered by the board of inspectors as a blank vote, and did they reject that ballot for that reason?

Ans. It was so considered, and rejected for that reason.

Inter. Then you would distinctly be understood, that it was not called and numbered, at the time of canvassing, as a vote?

Ans. It was not numbered, any otherwise than as a blank vote, and therefore was not counted as a vote.

Cross Interrogatories, put by Isaac Wilson. Were all the letters of the name legible and easily discerned?

Ans. I do not recollect any difficulty in reading it.

Inter. Did not one of the clerks at the time contend that the vote ought to be allowed?

Ans. I think so.

Further Interrogatories by Parmenio Adams.

Inter. What was that clerk's name; and was he, by law, a member of the board of election and canvassers?

Ans. It was Elijah Smith, if any one of either of the clerks, and he was not a member of the board of election, or canvassers, by law.

Inter. Was not the said Smith, then, a brother-in-law to Isaac Wilson, esq.?

Ans. I so understood it.

Inter. Was it your opinion, at the time, that the ballot ought to be rejected?

Ans. It was.

Inter. From the obliteration made by the pen being drawn across said ballot, do you think that the name of Isaac Willson was as easily to be read, as though it had not been erased?

Ans. I should say not.

Inter. Did it not appear that the erasure, on the ballot, was made by a dash of the pen?

Ans. It did.

Cross Interrogatory, by Isaac Wilson, esq. Did the board reject the vote for any other reason; and do you mean in this affidavit to give any other reason than the fact, that it was erased in the manner you have described?

Ans. That is the only reason.

RUSSEL ABEL.

Subscribed and sworn, this 31st day of }
October, 1823, before me, }

JOHN B. SKINNER, *Commissioner.*

State of New York, } ss.
Genesee County,

William B. Collar, of the town of Middlebury, and county aforesaid, being duly sworn, depose and saith: That he, this deponent, was, on the first Tuesday of March, A. D. 1822, duly chosen town clerk of the said town of Middlebury. That, as such town clerk, he was, ex officio, by the law of the state, one of the inspectors of the board of election for a member of Congress, for the twenty-ninth congressional district in said state, held in and for said town of Middlebury, on the first Monday of November, A. D. 1822, and the two succeeding days. That, as such, he assisted in canvassing and estimating the whole number of votes given in said town at said election. That, on canvassing the votes for a member of Congress, one printed vote which was found in the congressional ballot box, and had on it the name of Isaac Wilson, in print, was excluded from the canvass and estimate, and not included in the official return of votes from said town, because there appeared to be one stroke of a pen drawn over the name, but that every letter of the name of Isaac Wilson, was distinct and legible, and there was no other name or writing on said ballot.

Interrogatories, by Parmenio Adams.

Inter. Was the ballot so much obliterated, that the board of election, at the time of canvassing, considered that the person who gave it to the board, considered it a blank vote?

Ans. I think the person who gave it, did not mean to have it count.

Inter. Did you, as one of the inspectors of election in said town, believe, that *that* ballot was intended for a vote for any person?

Ans. I did not, and rejected it for that reason.

Inter. Did not each one of the members of the board of canvassers in said town agree to reject the said ballot?

Ans. I do not recollect that any one of the board made any objections?

WM. B. COLLAR.

Subscribed and sworn before me, this 31st day of October, 1823.

JOHN B. SKINNER, *Commissioner.*

State of New York, } ss.
Genesee County,

Nathan Hubbard, of the town of Middlebury, and county aforesaid, being duly sworn, depose and saith: That he, this deponent was, on the first Tuesday of March, A. D. 1822, duly chosen one of the assessors for said town, and, as such, was, ex officio, by a law of

this state, one of the inspectors of the board of election for a member of Congress, for the twenty ninth congressional district of this state, held in and for said town, on the first Monday of November, A. D. 1822, and the two succeeding days. That he assisted in canvassing the whole number of votes given in said town at said election. That on canvassing the votes for member of congress, one printed vote, which was found in the congressional ballot box, and had on it the name of Isaac Wilson, in print, was excluded from the canvass, and not included in the official return of votes from said town, because there appeared to be one stroke of a pen drawn over the name; but that every letter of the name of Isaac Wilson was distinct and legible, and there was no other name or writing on said ballot.

Interrogatories by Parmenio Adams.

Int. Was the ballot so much obliterated, that the board of election, at the time of canvassing, considered that the person who gave it to the board considered it a blank vote?

Ans. That, for the reason that it was so obliterated, the board of canvassers considered that it ought not to be counted as a vote.

Inter. Did you, as one of the inspectors of election in said town, believe, that that ballot was intended as a vote for any person?

Ans. I thought, for the reason that it was so obliterated, that the vote ought not to be counted, and rejected it for that reason.

NATHAN HUBBARD.

Sworn and subscribed before me, this 31st day of October, 1823.

JOHN B. SKINNER, *Commissioner.*

*State of New York, } ss.
Genessee County,*

Ira Gilbert, of the town of Stafford, county and state aforesaid, being duly sworn, deposeth and saith, that he, this deponent, attended at the canvass and estimates of the votes given in the said town of Stafford, on the first Monday of November, and two succeeding days, in the year A. D. eighteen hundred and twenty-two. At which time votes were taken for a member of Congress for the twenty-ninth Congressional district, in said state: that he, this deponent, was present at the time when the said votes were received: that, after the polls were closed, the president of the board of electors requested the spectators to leave the room, as they were about to canvass the votes: this deponent requested leave to stay, but the said president requested him to leave the room: that the said board of inspectors then retired into another room to canvass: this deponent then went to the usual door of entrance into the room where said board were, but the door was fastened; he then went round to a back door that led into the said room, and found the said board of inspectors canvass-

ing the votes for a member of Congress, and, while he was present, the president of said board took up from the votes given for Congress, two votes, one within the other, and the said president remarked there was two votes in one, and might have been given by one elector, and remarked that they could tell by examining the poll lists, and thereupon compared the votes and poll lists; and this deponent saith, that he examined the said votes while they were in the hand of the said president, and took them into his own hand, and recollects distinctly, and is positive, that both the said votes were given for Isaac Wilson: that the said votes were a piece of paper about an inch and a half long, and three-fourths of an inch wide; that the words "for Congress" was printed first on said votes on the same side of the paper with the candidate's name; that the votes were then folded back about one-third the width, so as to read "for Congress" on the out side, and the other part of the vote was then folded forward once, just so as to cover the candidate's name, so that the said votes were open on both sides, and when folded, about one-third of the width when open: and this deponent saith, that the said two votes so taken up together by the said president, were folded in the same form precisely as the other votes in said box, except they were together, and might, very naturally and probably, have slipped together, or slipped apart in the ballot box, while said box was carried about from the different places of receiving the votes in said town. And this deponent further saith, that the said two votes, so found together, might, from their appearance and the manner they were together, very probably have been received (from some person that distributed votes) so together by an honest elector, not knowing that there was two, and put into the ballot box without any fraud or intention to put in two votes.

Interrogatories by Parmenio Adams, Esq.

Were there not more or less spectators present during the canvass?

Answer. While I was there, there was five or six.

Did you hear any one of the board say at the time, that if the vote was single, the number of names on the poll lists and the number of votes agreed?

Answer. I heard one of them say so.

Do you know that the name of Isaac Wilson was on those?

Answer in the affirmative.

IRA GILBERT.

Subscribed and sworn, this twenty-eighth day of October, A. D. 1823, before me,

JOHN B. SKINNER, *Commissioner, &c.*

State of New York, } ss.
Genessee county, }

Ezekiel Hall, of the town of Stafford, county and state aforesaid, being duly sworn, deposeth and saith, that he, this deponent, on the first Tuesday of April, A. D. eighteen hundred and twenty-two, was duly chosen the town clerk for the said town of Stafford, and now is town clerk of said town: that, from the records of the said town, kept in the office of this deponent, as said clerk, it appears, that Nathan Marvin was duly chosen, and sworn into office, as supervisor of the said town for the year aforesaid; and that Isaiah Golden, Marvin Lord, and Oliver Campbell, were duly chosen, and sworn into office, as assessors of said town; and this deponent further saith, the said supervisor and assessors were, ex officio, by a law of the state, members of the board of election of a member of Congress for the twenty-ninth congressional district of the said state; and that he, this deponent, as the town clerk, was also, by law, one of the said board of inspectors; and that he, this deponent, assisted to canvass and estimate the whole number of votes given in said town at said election; that Parmenio Adams and Isaac Wilson were opposing candidates for Congress; that, on canvassing and estimating said votes, this deponent distinctly recollects that two votes, which were given for a member of Congress, and were in the box in which were deposited the votes taken for a member of Congress, were thrown out, and were not estimated by the said board of election, nor included in the official return of votes for said town, because they were found together, two in one; the said board, supposing they might have been given by one elector, contrary to the law of the state; and that both said votes were folded precisely in the same form and like the other votes in the box, except they were together. And this deponent further saith, that the said votes for a member of Congress were a piece of paper, about one inch and a half long, and three-fourths of an inch wide; that the word "Congress," or "for Congress," was printed first on said votes, on the same side of the paper with the candidate's name; that the vote was then folded about one-third of the width back, so as to read "Congress," or "for Congress," on the outside, and the other part of the vote was then folded forward once, just so as to cover the candidate's name; so that the said votes were open on both sides, and when folded, about one-third of the width when open.

Interrogatories by Parmenio Adams, Esq.

1. Did the number of votes in the Congressional ballot-box agree with the number of names on the poll lists, if the double ballot had been single?

Ans. I should say they did, calling the double ballot one vote.

2. Do you know whose name was on both or either of the ballots so folded together?

Ans. I do not.

3. Were they so folded together that you had no doubt they were both given by one elector?

Ans. I have no doubt they were.

4. Were the two votes thus folded destroyed by the consent of the board?

Ans. In the affirmative.

5. At what place was this done, and who was present at the time?

Ans. At the place of canvassing. The board of election were present, the clerks, and others.

6. Were there any objections to destroying the two votes by any person belonging to the board of election?

Ans. No objections.

Cross interrogatories by Isaac Wilson, Esq.

1. In what manner was the double ballot destroyed?

Ans. Thinks they were thrown on the floor and destroyed.

EZEKIEL HALL.

Subscribed, and sworn, this twenty-eighth day of October, A. D. 1823, before me,

JOHN B. SKINNER, *Commissioner, &c.*

State of New-York, } ss.
Genesee County,

Morvin Load, of the town of Stafford, county and state aforesaid, being duly sworn, deposeth and saith, that he, this deponent, was duly chosen and acted as one of the assessors of the town aforesaid, for the year A. D. eighteen hundred and twenty-two;—that, as such assessor, he, this deponent, was, ex officio, by a law of the state, one of the board of inspectors of the election of a member of congress, for the twenty-ninth congressional district of said state, held in the said town of Stafford, on the first Monday of November, and two succeeding days of the year aforesaid; and that, as such inspector, he assisted to canvass and estimate the whole number of votes given in said town, at said election;—that, on canvassing said votes, this deponent distinctly recollects, that two votes, which were given for a member of congress, and were in the congressional box, were thrown out, and were not estimated by said board, nor included in the official return of said town, the said board supposing they were given by one elector.

And this deponent further saith, that the said votes were folded precisely in the same manner, and were like the other votes in the said box, except they were double, two in one.

Interrogatories by Parmenio Adams, Esq.

1. Were those two votes above, folded together ? *Ans.* They appeared to be.
2. Was it your opinion, at the time they were folded, that they ought to be rejected ? Answer, in the affirmative.
3. Were those votes destroyed by consent of the board ? Answer, in the affirmative.
4. Were they laid on the table, for the purpose of taking the opinion of the board, whether they were double ? Answer, in the affirmative.
5. Did the number of votes in the congressional ballot box agree with the number of names on the poll list, if the double ballot had been single ? Answer, in the affirmative.
6. How were those ballots destroyed ? *Ans.* By being cast away and not counted.
7. Did you compare the poll lists of the congressional votes with the ballots before the canvass was begun ? *Ans.* I think they did, and they agreed, and when they discovered the double ballot, they counted again, and discovered one too many, calling the double ballot two.

MARVIN LORD.

Sworn and subscribed this 28th day of October, A. D. 1823, before me,

JOHN B. SKINNER, *Commissioner, &c.*

State of New York, } ss.
Genessee County.

Isaiah Golding of the town of Stafford, County and State aforesaid, being duly sworn, deposeth and saith, that he, this deponent, was duly chosen, and acted, as one of the assessors of the said town, for the year A. D. 1822. That, as such assessor, he, this deponent was, ex-officio, by a law of the State, one of the Board of Inspectors, of the election of a member of congress for the twenty-ninth congressional district of said State, held in the said town of Stafford, on the first Monday of November, and two succeeding days, of the year aforesaid; and that, as such inspector, he assisted to canvass, and estimate the whole number of votes, given in said town, at said election. That on canvassing said votes, this deponent distinctly recollects, that two votes, which were given for a member of congress, and deposited in the congressional box, were thrown out, and were not estimated by said board, nor included in the official return of votes for said town; the said board supposing, they might have been given by one elector. And this deponent further saith, that it is his impression, that the said votes, so excluded, were given for Isaac Wilson.

Interrogatories by Parmenio Adams, Esq.

Inter. Did you get the impression at the time of the canvass, that the votes were for Isaac Wilson?

Ans. I don't know when I formed the impression.

Inter. Do you know whose name was on both, or either of those tickets?

Ans. I did not.

Inter. Were those tickets destroyed?

Ans. It is my impression, and recollection, they were thrown on the floor.

Inter. Where there any objections, by any of the board, to destroying those votes?

Ans. Not that I recollect.

Interrogatory by Isaac Wilson, Esq.

Inter. Was it not remarked, at the time of the canvass, by some one present, that the votes might have slipp'd together in the box?

Ans. It was, but Col. Marven, one of the board, said 'twas impossible?

ISAIAH GOLDING.

Subscribed and sworn, this 28th day of October, A. D. 1823, before me,

JOHN B. SKINNER, *Commissioner.*

State of New York, }
Genessee County, } ss.

Alfred Churchill, of the town of Stafford, in said county, being duly sworn, deposeth and saith, that he attended at the canvass and estimate of the votes given in said town of Stafford, on the first Monday of November, A. D. 1822, and on the two succeeding days; at which time, with other officers, a member of Congress was voted for; that on the said canvass, the assembly, sheriff, and clerk's box were first opened, and on an attempt to compare the votes with the poll lists, it was found by the board to be impracticable, and the poll list was laid aside; and this deponent believes and is very confident that a further comparison of the poll lists and votes was not made until the board discovered what they considered a double vote, taken from the Congressional box; the board then made such comparison; and this deponent further saith, that, on said estimate and canvass, two votes given for a member of Congress, and which were in the Congressional ballot box, were excluded and neither of them counted, nor included in the official return of said town; that the said votes were folded in the same form and like the other votes in the said box, and from the manner the votes were folded they might have slipped together while

in the box, as the votes were open on both edges of the paper; and this deponent further saith, that he distinctly understood at the time, and has no doubt they were both given for Isaac Wilson; that the votes so excluded were taken into the hands of several persons present at the canvassing, and it was said by some of them that the said votes were given for Isaac Wilson.

Interrogatories by Parmenio Adams, Esq.

1. Was you a member of the board?

Answer in the negative.

Did you have the double ballot in your own hands?

Answer. I did not, but saw it in the hands of one of the board, and of other persons, he is confident one, and thinks more.

Did you see the names on those ballots?

Answer in the negative.

Did you see any comparison made between the votes and the names on the poll lists of the Congressional polls?

Answer. Not until they discovered the double vote; then they compared.

Interrogatory by Isaac Wilson, Esq.

Were you not present at, and previous to, the commencement of, and during the whole time the board were canvassing the Congressional votes?

Answer in the affirmative.

ALFRED CHURCHILL.

Subscribed and sworn, this 28th day of October, A. D. 1823, before me,

JOHN B. SKINNER, *Commissioner, &c.*

State of New York, }
Genessee County, } ss.

Worthy L. Churchill, Esquire, of the town of Stafford, in the said county, being duly sworn, deposeth and saith, that he, this deponent, was present at the canvass of the votes given in the said town of Stafford, on the first Monday of November, and two succeeding days, in the year A. D. 1822; at which time votes were given for a member of Congress, for the twenty-ninth Congressional district of New York; that this deponent was present when the said votes were received and when the polls were closed, and then left the room for a short time, and on returning he was informed that the board of election had retired into another room by themselves to canvass the said votes; that he then went to the usual door of admittance into the room where the said board had retired, and found the said door fastened, and he could not get in; that he was then informed that there

was a back door leading into said room, to which he repaired, and believes he was the first person except the said board and clerks, that entered the said room after the said board had retired to it; that when he entered the said room, the said board were by themselves endeavoring to compare the votes given for clerk, sheriff, and members of assembly, with the poll lists, but the said board finding so many different candidates on the said votes, and the said votes so erased and disfigured by striking out some names and writing others, and some being entered on separate slips of paper when names were cut out, that the said board determined it was impracticable, and laid aside the said poll lists and did not attempt a further comparison, nor did they ascertain whether said votes and poll lists agreed or not; And this deponent saith that the said board did not to his knowledge (and he was present in the room all the time) attempt any comparison of the number of votes taken for Congress, with the number of names on the poll lists, until they discovered what they considered a double vote, and thereupon the President of the Board remarked, on taking up said vote, that there was two in one, and it might have been given by one elector, as it was then found, but that they could ascertain, by comparing the votes with the poll lists, and the said board then compared them. And this deponent saith, that he took the said votes, so together, into his own hand, and examined them, and recollects, distinctly, and is positive, that they were both given for Isaac Wilson: that the said votes were a piece of paper, about one inch and a half long, and three fourths of an inch wide: that the words "for Congress" were printed first, near the top of said vote, on the same side of the paper with the candidate's name; that the votes were then folded back, about one third of the width, so as to read "for Congress," on the outside; and the other part of the votes were then folded forward once, just so as to cover the candidate's name, so that the said votes were open on both sides, and, when folded about one-third of the width, when open; and that the said two votes, so taken up together, were folded in the same form precisely, and like the other votes in said congressional box, except they were together; and that the said votes might very naturally, and probably, have slipped together, or slipped apart, in the said box, while it was carried about to and from the several places of receiving votes in said town during the three days of election. And this deponent further saith, that the said two votes, so found together, might very probably have been received (from some person distributing votes) so together by an honest elector, not knowing that there were two in one, and put into the ballot box, without any fraud or intention to put in two votes. And this deponent further saith, that he has occasionally known a disagreement between the names on the poll list and the votes in the box, at former elections in this state, when no double votes were discovered; and that it is not uncommon to see votes slipped together by being moved about in the ballot boxes.

Interrogatories by Parmenio Adams, Esq.

Did the number of votes agree with the number of names on the poll-lists?

Ans. He understood they did, calling the double vote one.

Are you positive there was no comparison of the congressional votes and poll lists previous to the canvass?

Ans. None after I went into the room; and the congressional box was unlocked after he entered the room.

Were these votes folded closely together?

Ans. They appeared to be folded or slipped together; the length the same, but a difference in the width.

W. L. CHURCHILL.

Subscribed, and sworn, this twenty-eighth day of October, A. D. eighteen hundred and twenty-three, before me,

JOHN B. SKINNER, *Commissioner, &c.*

State of New York, } ss.
Genessee County,

Stephen Griswold, esquire, of the town of Stafford, being duly sworn, deposeth and saith: That he has resided a number of years in the state of New York; that he has frequently attended the canvassing of votes given at the elections in said state; that the usual method of folding tickets, or votes, which are given in by the electors, is as follows, to wit: The caption, or designation of the vote, is written or printed near the top, and on the same side with the name or names of the candidate or candidates: The caption is folded back so as to be read on the outside: The lower edge of the vote is folded forward, just so as to cover the name or names of the candidates, so that the edges of the votes are out on both sides: That the votes for Congress, containing but one name, are thus laid in three folds, of about equal size, and when folded are about one third of the width when open. And further, that this deponent has not unfrequently, when attending a canvass, as aforesaid, observed two votes slipped together, as though they had been thus folded together, which slipping together might well happen, from the handling, jarring, conveying and carrying the boxes for three days successively. And further, this deponent has observed that votes, thus together, have been counted and taken into the estimates and returns.

Interrogatory by Parmenio Adams, esquire.

Inter. Did you ever know of two ballots being found in a fold together, to be carried forward in the election returns, when there was more ballots than names on the poll lists?

Ans. I did not.

Cross Interrogatories, by Isaac Wilson, Esq.

Inter. Have you not observed a disagreement between the votes in the box and the names on the poll lists?

Ans. In the affirmative.

Inter. Is it not usual for the board of inspectors to draw out a vote from the box, when the number of votes exceed the number of names on the poll list?

Ans. It is.

STEPHEN GRISWOLD.

Subscribed and sworn, this 28th day of October, A. D. 1823, before me,

JOHN B. SKINNER, *Commissioner, &c.*

*State of New York, } ss.
Genessee County, }*

Bartholomew Benham, of the town of Byron, county and state aforesaid, being duly sworn, deposeth and saith, that he, the deponent, was duly chosen and acted as one of the assessors of said town, for the year, A. D. eighteen hundred and twenty-two. That, as such assessor, he was, ex-officio, one of the inspectors of the election of a member of Congress, for the twenty-ninth congressional district of said state, held in said town of Byron, on the first Monday of November, and the two succeeding days, A. D. eighteen hundred and twenty-two; that he assisted to canvass and estimate the whole number of votes given in said town at said election; that Isaac Wilson and Parmenio Adams were opposing candidates for Congress. And this deponent further saith, that, on canvassing the said votes, two packages of votes, containing two votes each, were thrown out, and were not estimated, nor included in the official return of votes for said town, because they were together, two in one. That he, this deponent, said, that one of the said votes, so excluded, was given for Isaac Wilson, and has no doubt that both packages, so excluded, were given for Isaac Wilson, for they were alike in size and appearance, and from the fact that the caption on the packages excluded, was printed "For Congress," in Italics, whereas those given for Parmenio Adams, were in the caption "Congress," in Roman letters; and this deponent does not recollect, that the votes, so excluded, were folded different from the other votes given for a member of Congress.

And this deponent further saith, that the said votes for Congress, were a piece of paper about one inch and a half long, and three-fourths of an inch wide; that the word "Congress," or "For Congress," was printed first on the said votes, on the same side with the candidate's name, and generally the vote was folded back about one-third of the width, so as to read Congress on the outside, and the other part of the vote was folded up once so as to cover the name of

the candidate; so that the votes were open on both sides, and when folded, about one third of the width when open.

Interrogatories, by Parmenio Adams, Esq.

Inter. Did the ballots, for a member of Congress, agree in number with the names on the poll lists, if the double ballots had been single?

Ans. According to my recollection they did.

Inter. Were those four votes excluded, so folded as to satisfy you that the whole four were given by two electors, each giving two?

Ans. They were.

Inter. Do you know whose name was on the inside of those ballots?

Ans. I know the name on but one, and that was the name of Isaac Wilson.

Inter. Do you know that the caption on the inside notes was the same as the outside ones?

Ans. I do not.

Inter. Why were those double ballots destroyed?

Ans. Because the board supposed that the law required it.

Inter. Did you entertain any doubt, or any of the inspectors express any, after they examined the law?

Ans. They did not.

Cross Interrogatory, by Isaac Wilson, Esq.

Inter. Were you not led to believe from the circumstance, that the four votes excluded were of the same size and appearance, and from the caption on the outside being in italic letters, they were given for Isaac Wilson?

Ans. I was.

BARTHOLOMEW BENHAM.

Subscribed and sworn, this 27th day of October, A. D. 1823, before me,

JOHN B. SKINNER, *Commissioner.*

State of New York, }
Genessee County, } ss.

Samuel Taggart, being duly sworn, deposeth and saith, that, on the first Tuesday of April, A. D. 1822, he, the said deponent, was elected Town Clerk of the town of Byron, in the said county of Genessee; and, as such town clerk, he was, by a law of the state, made, *ex officio*, one of the Inspectors of the election, in and for said town of Byron, and as such inspector, attended the poll of election held in said town, on the first Monday of November, A. D. 1822, and on the two succeeding days; at which election a member of Congress, for the 29th Congressional district in the state of New York, was voted for: and, on canvassing said votes, it appeared that of the votes given in, agreeably to the laws of the state, Parmenio Adams had sixty votes,

and Isaac Wilson had twenty-seven votes. And this deponent further states, that on counting the number of ballots, before the same were opened, and the number of names on the clerk's poll-list, the numbers agreed, and were eighty nine: and, on opening the votes, to canvass the same, there were found two packets, containing more than one vote each; which two packets were so completely folded, as to discover only one caption on each—which packets were laid aside, and kept until the canvass of the other ballots was completed. When the poll-lists and number of votes canvassed were again compared, and it was found, that if the said packets, with their enclosures, were canvassed, the number would exceed the number of names on the clerk's poll-lists, the exact number of said enclosures: whereupon, the inspectors of election, then present at the board, unanimously agreed, in compliance with the law, (which requires all votes, where two or more are folded or rolled together, to be destroyed and not counted,) to destroy the whole. And this deponent further states, that he examined only one of the said votes sufficiently to state whose name was contained therein, and on that ballot was printed the name of "Isaac Wilson;" and, from the caption on the outside vote of the other packet, this deponent has no doubt it was given for Isaac Wilson, as the caption on the printed votes for Isaac Wilson was, "For Congress," in italic characters, while on those given for Parmenio Adams, the caption was, "Congress," in roman characters.

SAMUEL TAGGART.

Subscribed, and sworn, the twenty-seventh day of October, A. D. eighteen hundred and twenty-three, before me,

JOHN B. SKINNER, *Commissioner.*

State of New York, }
Genessee County, } ss.

Daniel Dibble, being duly sworn, deposeth and saith, that, on the first Tuesday of April, A. D. 1822, he, the said deponent, was elected as one of the Assessors of the town of Byron, in said county, and that, as such, he was, *ex officio*, by a law of the state, one of the Inspectors of election in said town, and, as such, attended the election in said town, on the first Monday of November, A. D. 1822, and on the two succeeding days; at which election, a member of Congress for the 29th Congressional district, in the state of New York, was voted for; and that, on opening the votes, to canvass the same, there were found two packets containing more than one vote each, which were so folded as to discover only one *caption* on each, which were in printed words, "For Congress," in italic letters: that he examined one of said votes, and found in the same, printed, the name of "Isaac Wilson," and has no doubt, from the said *caption*, that the other vote contained the name of "Isaac Wilson" also; and that said votes were laid aside, and were not estimated, or allowed, or carried forward in the official return of votes of said town; and further, that the cap-

tion, on the votes given for Parmenio Adams, was, "Congress," in Roman characters.

Interrogatory by Parmenio Adams, Esquire.

1. Had you any doubt, from the folding of the ballots, and the poll-lists, but they were all four given by two voters, each two votes? *Ans.* I had none.

2. Do you know whose name was on either, or all of said ballots? *Ans.* Did not examine the inside of but one vote, in which was the name of "Isaac Wilson."

3. Why were the double ballots destroyed? *Ans.* Because the law required it.

4. Did the ballots for members of Congress agree in number with the names on the poll-lists, if the double ballots had been single? *Ans.* They did.

Interrogatory by Isaac Wilson, Esquire.

1. Did you not examine the *captions* on three of the four votes in the two double ballots, and find them to agree, being in the words, "For Congress," printed in italics? *Ans.* I did.

2. From the circumstance of said agreement, in the *captions*, with that one of said votes containing the name of "Isaac Wilson," do you not believe that the name of Isaac Wilson was contained in the others also? *Ans.* Has no hesitation to answer in the affirmative.

Interrogatory by Parmenio Adams, Esquire.

How were those double ballots destroyed? *Ans.* They were torn in pieces by Samuel Taggart, a member of the board, and thrown upon the floor, at the time of the said canvass."

DANIEL DIBBLE.

Subscribed, and sworn, this twenty-seventh day of October, A. D. eighteen hundred and twenty-three, before me,

JOHN B. SKINNER, *Commissioner.*

State of New York, } ss.
Genessee County. }

Edmund Wilcox, of the town of Byron, county and state afore-said, being duly sworn, deposeth and saith, that he, this deponent, was duly chosen, and acted as one of the assessors of the said town of Byron, for the year eighteen hundred and twenty-two; that, as such assessor, he was, ex officio, by a law of the state, one of the inspectors of the board of election of a member of Congress for the twenty-ninth Congressional district of said state, held in the town of

Byron aforesaid, on the first Monday of November, and two succeeding days, A. D. eighteen hundred and twenty-two; that he assisted to canvass and estimate the whole number of votes given in said town, at said election; that Isaac Wilson and Parmenio Adams were opposing candidates for Congress; that, on canvassing and estimating the said votes, two votes, this deponent distinctly recollects, which were given for a member of Congress, and had the words "for Congress" printed on them, and were in the box in which the votes for a member of Congress were deposited, were thrown out, and were neither of them estimated by the said board of election, nor included in the official return of votes for said town, because they were found together, two in one, the said board supposing they might have been given by one elector, contrary to the law of the state, and that both the said votes were folded precisely in the same form, and like the other votes in the said box, except they were together; and this deponent further saith, that the said votes for a member of Congress, were a piece of paper about one inch and a half long, and three-fourths of an inch wide; that the words "for Congress" or "Congress" was printed first on the said votes on the same side with the candidate's name; that the vote was then folded about one third of the width back, so as to read "for Congress" or "Congress" on the out side; the other part of the vote was folded up once, just so as to cover the candidate's name, so that the said votes were open on both sides, and when folded, about one third of the width when open.

Interrogatories, by Parmenio Adams, Esquire.

1. Had you any doubt at the time, from the folding of said ballots, and the poll list, that both said ballots were given by one elector?

Ans. I have no doubt.

2. Do you know what names were on those ballots?

Ans. I do not.

3. Why were those ballots destroyed?

Ans. Because the law required it.

EDMUND WILCOX.

Subscribed and sworn this twenty-seventh day of October, A. D. eighteen hundred and twenty-three, before me,

JOHN B. SKINNER, *Commissioner.*

*State of New York, } ss.
Genesee County, }*

Samuel B. James, of the town of Batavia, in the county aforesaid, being duly sworn, deposeth and saith, that he was present, a part of two days, at the election held in the town of Byron, in said county, on the first Monday of November, 1822, and the two succeeding days. And this deponent further saith, that he was present at the close of the poll, when the inspectors of said election canvassed the

votes, and that Isaac Wilson and Parmenio Adams were opposing candidates for Congress; that, during the canvassing of the votes for a member of Congress, there were found four votes which seemed to be in two parcels, containing two votes each, taken from the Congressional ballot box. And this deponent saith, that he took particular notice of the said four votes, and that said four votes were folded as follows, viz: The caption was folded back about one third of the width of the vote, so as to read on the outside "for Congress"—the lower edge of the said votes were folded forward, so as to cover the name of the candidate, so that both edges of the votes were out, and, when folded, said votes was about one-third of the width when open, and that those four votes were folded precisely like the other votes given for Isaac Wilson for Congress. And this deponent saith, he thinks it is very probable they might have slipt together by being moved and shuffled about in the ballot box while it was carried about to the three different places of holding the election in said town, as, from the manner said votes were together, they could have slipt together or apart in the box without any unfolding, or might very probably have been received (from some person that distributed votes) so together, by an honest elector, not knowing that there was two in one, and put into the ballot box without any fraud or improper intention. And this deponent saith, he is very positive, said four votes were given for Isaac Wilson, and knows that three of them were, from the following facts:

When the first two votes, so together, were spoken of and taken up by one of the inspectors, this deponent saw that the caption on the outside was in italic letters, thus: "for Congress," and being about one-third open, this deponent distinctly saw the name of Isaac Wilson on the inside vote, and, while the inspectors were conversing respecting the said votes, this deponent saw that the caption on the outside vote was like the inside vote, thus: "for Congress," and that he also saw the name of Isaac, or all the letters except the last, or (Isaa) on the outside vote as it was turned forward, but could not see the name of Wilson; that one of the second two votes so together, when discovered, or first spoken of by the inspectors, was partly slipt by the other. And this deponent kept his eye on said votes, and viewed them very closely, and distinctly saw that the caption on the inside vote was the same as the other votes for Isaac Wilson, in italic letters, "for Congress." Whereas the caption on the votes, or such as came to his knowledge, given for Parmenio Adams, at said election, was "Congress," in roman letters. And that, before the votes were destroyed, he saw the name of Isaac Wilson on the outside vote, that it was said at the time by some of the board of inspectors, that those votes were given for Isaac Wilson. And one of the inspectors said he suspected that Walker Chase and his brother put in said votes, and this deponent inquired of him if he saw or knew any thing that induced a belief that it was them; to which he replied, nothing more than the fact that they were friendly to the election of Mr. Wilson, or words of like import.

And this deponent further saith, that the said four votes were not included in the estimate of votes of said town, nor included in the official return.

Interrogatories by Parmenio Adams, Esq.

Did those two packets lie on the table so that you could see and turn them over, while the other votes were canvassing?

Ans. They were one, or both laid under the box during the canvass, and, before they were disposed of, I took up the box and turned one of them over.

2d. Were both of those packets or double votes on the table at the same time?

Ans. I do not recollect.

3d. What was done with the votes contained in those packets?

Ans. I think they were torn up and thrown under the table by one of the inspectors.

4th. Were they all destroyed at the same time?

Ans. I cannot recollect whether they were all destroyed at the same time or not.

5th. Do you know that the caption on all the votes put into the ballot box for Parmenio Adams, was "for Congress," or "Congress," with the word "for" prefixed?

Ans. I do not; but, such as I noticed, were "Congress," without the word "for" prefixed.

6th. Do you know that the number of ballots in the Congressional box compared with the names on the poll list, counting the double ballots, four instead of two?

Ans. I think there would have been two more ballots than names on the poll list.

7th. Were you a member of the board of election in the town of Byron at that time?

Ans. I was not.

8th. Were you a resident of the town of Byron?

Ans. I was not.

9th. Did you take the packets into your own hands while the inspectors were canvassing the other votes?

Ans. I think I did not.

Interrogatory by Isaac Wilson.

Had you not been a resident of the town of Byron previous to said election?

Ans. I had about two years previous to the election.

Taken and subscribed, this 10th day of November, A. D. 1823, before me,

SAMUEL TAGGART, *Commissioner.*

State of New-York, } ss.
Genesee County, }

Henry G. Walker, of the town of Middlebury, in the county of Genesee, being duly sworn, does depose and say, that, on the first Monday of November, last past, and the two succeeding days, he, (being duly appointed and sworn,) officiated as a clerk of the election in the town of Middlebury, in the county of Genesee, aforesaid : And this deponent says, that a piece of paper was found amongst the votes in the congressional ballot box, by some one of the members of the board of inspection of the election in said town, which appeared to have had the name of Isaac Wilson printed thereon—but, it had evidently been erased, by drawing a pen over said name of Isaac Wilson, and this deponent is strongly impressed with the belief, that the said board of inspectors unanimously decided, that the said piece of paper ought not to be considered as a vote or ballot, and that the said board of inspectors did, in the presence of this deponent, reject the same. And this deponent verily believes, that the said inspectors were perfectly correct in so rejecting said vote, for the reason, that it was evident to him, (and, as he believes, to the said inspectors,) that the same ought to be rejected, and not counted as a vote.

Interrogatories put by Isaac Wilson, Esq.

1. Could not the name of Isaac Wilson be fairly read ? *Ans.* It appeared to be a pretty heavy dash with the pen, but could be read.
2. Was said canvass made in the evening, by candle light ? *Ans.* It was.

HENRY G. WALKER.

*Subscribed and sworn to this 30th day of October, A. D. 1823,
 before me, HARVEY PUTNAM, Commissioner, &c.*

I, Isaac Wilson, hereby acknowledge, to have consented to the taking the above affidavit, by Henry G. Walker, at this time. Dated October 31, 1823.

ISAAC WILSON.

State of New York, } ss.
Genesee County, }

Benedict Brooks, Esqr. of the town of Covington, being duly sworn, deposeth and saith, that he has resided a number of years in the State of New York. That he has frequently attended the canvassing of votes, given at the elections in said State. That the usual method of folding votes, or tickets, which are given in by the electors, is as follows, viz: The caption or designation of the vote, is written or printed near the top, and on the same side with the name, or names of the candidate or candidates. The caption, is folded back, so as to read on the outside. The lower edge is folded forward, so as to cover the name or names of the candidates, so that the edges of the vote are out on both sides. That the votes for Congress, containing but one name, are thus laid in three folds of about equal size, and when folded, are about one third of the width of the vote when open. And further, that this deponent has not unfrequently, when attending a canvass as aforesaid, observed two votes slipped together, as though they had been thus folded together, which slipping together might well happen, from the handling, jarring, and conveying the boxes for three days successively. And further, this deponent has observed, that votes thus together, have been counted, and taken into the estimate and returns. And this deponent further saith, that he has occasionally noticed, on canvassing the votes, an excess of votes in the ballot boxes, over the names on the poll lists.

Interrogatories by Parmenio Adams, Esq.

Int. Were you a member of the Board of Inspectors of election, either in the town of Byron, or in the town of Stafford, in said county of Genesee, on the 4th day of November last past, and the two succeeding days?

Ans. I was not.

Int. When two, or more votes are found together, has it not always been the case, so far as your knowledge extended, that the inspectors, at the time of canvassing, examined the situation of said votes, and if they believed that they were folded, and put in together, have they not rejected such votes?—and does not the law require it?

Ans. I believe they have,—And I think the law requires it.

Int. Did you ever know votes folded, or rolled together, *appearing* to have been put in together by the voter, to be allowed and counted as legal ballots, by any Board of Inspectors of election?

Ans. I have discovered a vote included in another vote, which, at first appearance, would naturally be supposed, to have been put into the box together; but the number of names on the poll lists convinced the board, that they were not put in together—and I have also witnessed other cases nearly similar.

Int. At what time and place was it, that you made the discovery alluded to in your answer to the last interrogatory?

Ans. I have been a member of the board of election, in the town

of Covington for about seven or eight years successively, and some time during that time, I made the discovery, but I cannot state the particular time.

Int. Did you ever know votes thus folded together, appearing to have been put in together, to have been counted, and taken into the estimate of returns, at any time, except when it was necessary to make the number of ballots agree with the number of names on the poll lists?

Ans. I never did—and I would be understood to state, that I derive my information of the facts above stated, from attending as a member of the board of election, in the town of Covington.

Int. Do you know any instance, when two, or more votes, ever got folded together in the ballot box, by jarring, or otherwise?

Ans. I could not know the fact; but I have known them to have that appearance, and the board were convinced that was the case.

Int. Do you know any thing of the transactions of the Board of Inspectors of election, either in the towns of Byron, or Stafford, at the election for member of Congress, in November, 1822; and whether the said Inspectors rejected any votes received into the ballot boxes, or not—and if they did, do you know that they were illegally rejected?

Ans. I know nothing about any transactions at the Board of Inspectors of election at that time, in those towns, except by report.

Int. Do you intend to state, *positively*, that it was not *unfrequently* the case, that you have observed two votes slipped together, as though they had been *folded* together?

Ans. I do intend to state it *positively*.

BENEDICT BROOKS.

Subscribed and sworn, this 31st day of October, A. D. 1823, before me,

JOHN B. SKINNER, *Commissioner*.

State of New York, } ss.
Genesee County, }

Jonathan Nickerson, being duly sworn, deposeth and saith, that he was present at the closing the poll of election, for a member of Congress and other officers, in the month of November, 1822, in the town of Byron, in the aforesaid county; and this deponent further saith, that he saw Bartholomew Benham, one of the inspectors of said election, take a packet from the ballot box for the Congress candidates, which was said to contain more than one vote, and hand the same to Samuel Taggart, who was also one of the inspectors of the said election, and this deponent was very particular to see what the inspectors of election would do with the said votes, so folded to-

gether, and after the other votes for Congress were canvassed, the inspectors examined the law: Whereupon, the said inspectors decided that it was illegal to canvass the said votes which were so folded together, and they were destroyed by Samuel Taggart, the said inspector, who had had the same in his possession from the time they were handed to him by the said Benham, and thrown under the table.

Questions put by Isaac Wilson, Esq.

Q. Do you not recollect there were two double votes found in the Congressional box?

A. I do not recollect but one.

Q. Was not the double votes taken up by the inspector from a parcel of Congress votes lying on the table?

A. They were taken from the table as the other votes were.

Q. Were not the double votes partly opened?

A. They were partly opened, so as to discover there were two.

Q. Do you know the inspector kept those two votes in his possession from the time Benham handed them to him, until he destroyed them?

A. I think he did.

Q. Was not Samuel Taggart, the inspector, assisting the other inspectors during the canvass, in canvassing the votes?

A. I believe he was, that Benham took up the Congressional votes, handed them to Samuel Taggart, who read the Congressional votes; the double ones were handed in the same way, but not read.

Q. Were you present all the time the inspectors were canvassing and estimating the Congressional votes?

A. I cannot say certainly, whether I was, or not.

JONATHAN NICKERSON.

Sworn and subscribed, this 10th day of November, 1823, before me,

SAMUEL TAGGART, *Commissioner, &c.*

